

## **REMARKS**

These Remarks are presented in response to the Office Action. Claims 1, 10, 20 and 29 are amended. Claims 1-32 remain pending in this application.

Reconsideration of this application is respectfully requested in view of the following remarks. For the convenience and reference of the Examiner, the remarks of the Applicant are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. Objection to the Drawings**

The Examiner has objected to the drawings under 37 CFR 1.83(a) stating that the drawings “fail to show ‘a single magnetic element (406)’ reference to Fig.3 as described in the specification.” In view of the amended Figure 3 submitted herewith, Applicant submits that the objection of the Examiner has been overcome and should be withdrawn.

### **II. Claim Rejections**

In connection with the matters contemplated herein, Applicant respectfully notes at the outset that the following discussion should not be construed to constitute an exhaustive enumeration of the distinctions between the claims of the present application and the references cited by the Examiner. Instead, such distinctions are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose future consideration, by the Applicant, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner.

Moreover, Applicant notes that the claim amendments and/or remarks herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such claim amendments and remarks, or a lack of remarks, should not be construed as an acquiescence, on the part of the Applicant, as to the purported teachings or prior art status of the cited references, nor as to the characterization of the cited

references advanced by the Examiner. Accordingly, Applicant reserves the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

**A. Claim Rejections Under 35 U.S.C. § 102(b)**

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(b) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *See* Manual of Patent Examining Procedure (“M.P.E.P.”) § 2131.

The Examiner has rejected claims 1-4, 6-17, 20-23, and 25-30 and 32 as anticipated by one or more of US 6,111,934 to Foerst et al. (“*Foerst 1*”), US 6,055,294 to Foerst et al. (“*Foerst 2*”) and US 5,548,630 to Hell et al. (“*Hell*”). While Applicant disagrees with the position of the Examiner, Applicant has amended claims 1, 10, 20 and 29, as discussed below, and Applicant respectfully submits that in light of such amendments, the rejection of the claims has been overcome and should be withdrawn.

Particularly, Applicant has amended claims 1, 10, 20 and 29 to recite, among other things, a magnetic element (or, alternatively, a means for facilitating focal spot control) “arranged such that flux lines of a magnetic flux density B of a magnetic field associated with the at least one magnetic element are substantially perpendicular to a direction of travel of the electron beam.” Support for this amendment can be found in the specification at, for example, Figures 1-4, and paragraphs [027], [034], [039] and [040].

Inasmuch as the Examiner has not established that the aforementioned limitation, in combination with the other limitations of the rejected claims, is taught by the cited references, the rejection of claims 1-4, 6-17, 20-23, and 25-30 and 32 must be withdrawn.

**B. Claim Rejections Under 35 U.S.C. § 103(a)**

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first,

there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See M.P.E.P. § 2143.

The Examiner has rejected claims 5, 18, 24, and 31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,055,294 issued to Foerst et al ("*Foerst 2*") as applied to claim 1, 10, 20 and 29 above, and further in view of US Patent 4,631,744 issued to Haberrecker ("*Haberrecker*"). For at least the reasons outlined below, Applicant respectfully disagrees and submits that the rejection should be withdrawn.

By virtue of their respective dependency from claims 1, 20 and 29, dependent claims 5, 24, and 31 all require an element (or, alternatively, a means for facilitating focal spot control) "arranged such that flux lines of a magnetic flux density B of a magnetic field associated with the at least one magnetic element are substantially perpendicular to a direction of travel of the electron beam." As noted above, the Examiner has not established that the aforementioned limitation, in combination with the other limitations of the rejected claims, is taught by the cited references. Thus, even if the purported teachings of the references are combined in the manner that the Examiner alleges is obvious, the resulting combinations nonetheless fail to include all the limitations of the claims, as such claims have been amended herein.

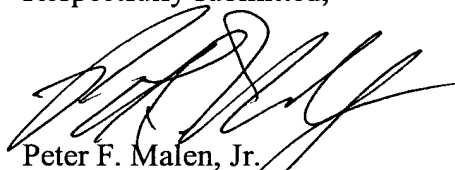
In light of the foregoing, Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness with respect to claims 5, 24, and 31, and the rejection of those claims should accordingly be withdrawn.

**CONCLUSION**

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-32 is now in condition for immediate allowance. Therefore, reconsideration of the objections and rejections is requested and allowance of these claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 14<sup>TH</sup> day of July, 2005.

Respectfully submitted,



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### **AMENDMENTS TO THE DRAWINGS**

Please replace Figure 3 of the drawings with the attached Figure 3 'Replacement Sheet.'  
A redline markup is also enclosed that denotes the changes made to Figure 3. No new matter is believed to be introduced in the aforementioned Figure 3 'Replacement Sheet.'

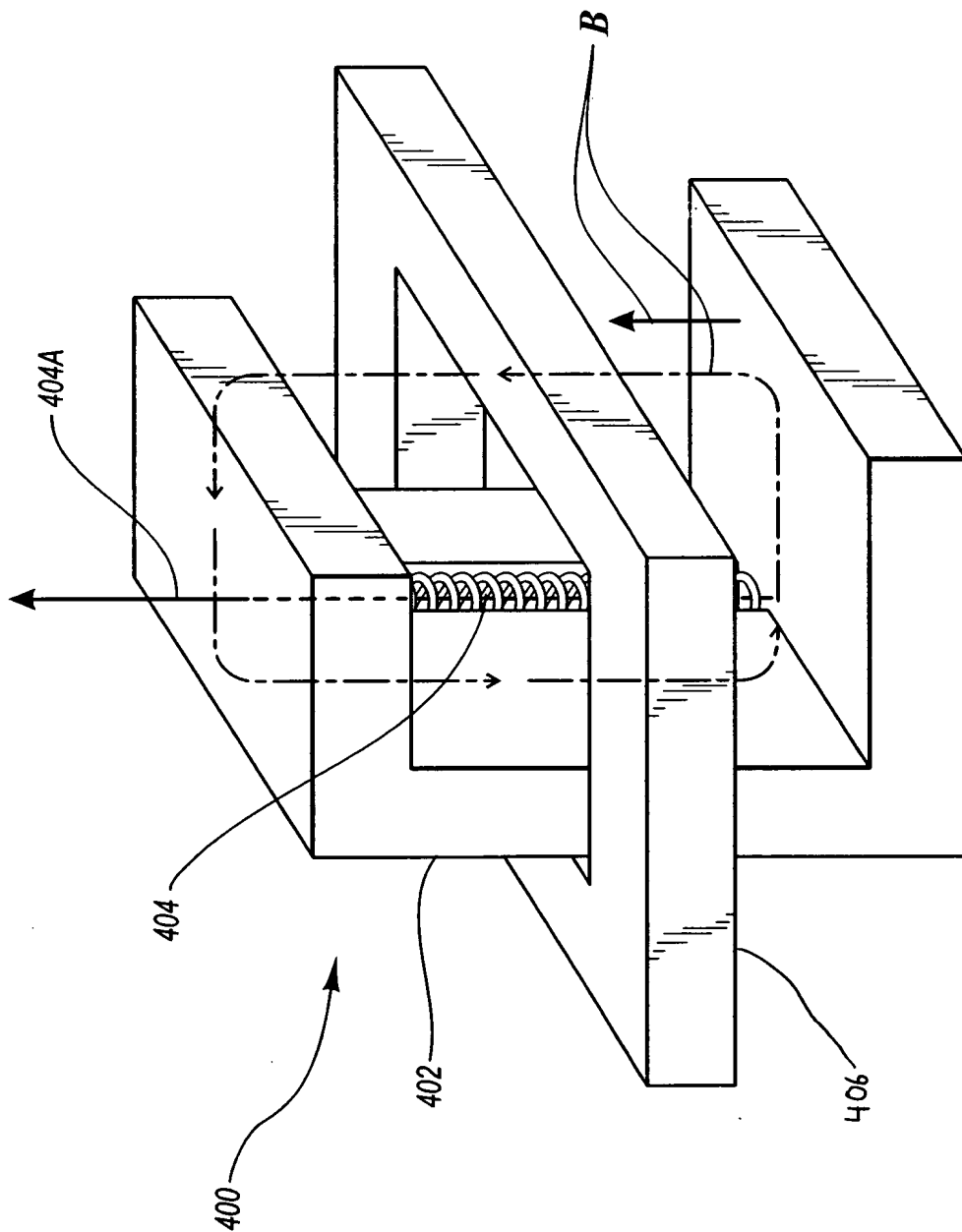


Fig. 3